



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4000
1-800-592-5482

VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO W.E.L., Inc. FOR

**W.E.L. CONCORD, ROANOKE, AND WINCHESTER FACILITIES
EPA ID Nos. VAD988171369, VACESQG21702, VACESQG31703**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1455 and 62.1-44.34:20, between the Virginia Waste Management Board, State Water Control Board, and W.E.L., Inc. regarding the W.E.L. Concord, Roanoke, and Winchester Facilities for the purpose of resolving certain violations of the Virginia Waste Management Act, State Water Control Law, and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Aboveground storage tank" or "AST" means any one or combination of tanks, including pipes, used to contain an accumulation of oil at atmospheric pressure, and the volume of which, including the volume of the pipes, is more than ninety percent above the surface of the ground. This term does not include line pipe and breakout tanks of an interstate pipeline regulated under the Hazardous Liquid Pipeline Safety Act of 1979 or the Natural Gas Pipeline Safety Act of 1968, as amended.
2. "Board(s)" means the Virginia Waste Management Board and/or the State Water Control Board, permanent citizens' boards of the Commonwealth of Virginia, as described in Va. Code.

3. "CESQG" means a conditionally exempt small quantity generator of hazardous waste, a generator of less than 100 kilograms of hazardous waste in a month and meeting the other restrictions of 40 CFR § 261.5 and 9 VAC 20-81-10.
4. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
5. "Concord Facility" means W.E.L., Inc.'s Facility located at 12236 Richmond Highway in Concord, Virginia.
6. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
7. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
8. "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying or dumping.
9. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.
10. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
11. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code §§ 10.1-1455 and 62.1-44.15.
12. "Oil" means oil of any kind and in any form, including, but not limited to, petroleum and petroleum by-products, fuel oil, lubricating oils, sludge, oil refuse, oil mixed with other wastes, crude oils and all other liquid hydrocarbons regardless of specific gravity. *See* Va. Code §62.1-44.34:14.
13. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
14. "Regulations" or "VHWMR" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effective date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.
15. "Roanoke Facility" means W.E.L., Inc.'s Facility located at 800 Liberty Rd NE in Roanoke Virginia.

16. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.
17. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code. Article 11 (Va. Code §§ 62.1-44.34:14 through 62.1-44.34:23) of the State Water Control Law addresses discharge of oil into waters.
18. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
19. "Va. Code" means the Code of Virginia (1950), as amended.
20. "VAC" means the Virginia Administrative Code.
21. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.
22. W.E.L. means W.E.L., Inc. a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. W.E.L. is a "person" within the meaning of Va. Code § 10.1-1400.
23. "Winchester Facility" means W.E.L., Inc.'s Facility located at 160 Stine Lane in Winchester, Virginia.

SECTION C: Findings of Fact and Conclusions of Law

1. W.E.L. owns and operates the Concord Facility, Roanoke Facility, and Winchester Facility. W.E.L. provides emergency and non-emergency environmental services. Operations at the Facilities are subject to the Virginia Waste Management Act, State Water Control Law and the Regulations.
2. W.E.L. submitted a RCRA Subtitle C Site Identification Form (received June 25, 1990) that gave notice of regulated waste activity at the Concord Facility as a CESQG of hazardous waste. W.E.L. was issued EPA ID No. VAD988171369 for the Concord Facility and subsequently went inactive in 1993. On October 10, 2006, the Concord Facility submitted a form notifying DEQ of its return to CESQG status. The Roanoke Facility is a CESQG and on June 28, 2017, DEQ assigned the Roanoke Facility ID number VACESQG21702. The Winchester Facility is also a CESQG of hazardous waste and DEQ assigned it ID number VACESQG31703.

3. At the Facilities, W.E.L. generates waste in the form of used oil, spent fluorescent lamps, used batteries, mercury containing equipment, and spent aerosol cans (potentially D001 and D003).
4. On April 4, 2017, May 25, 2017, June 8, 2017, and June 23, 2017, RCRA compliance evaluation inspections were conducted at the three W.E.L. Facilities. Additionally, an AST compliance inspection was performed at the Concord Facility on May 25, 2017. Department staff inspected the Facilities for compliance with the requirements of the Virginia Waste Management Act, State Water Control Law, and the Regulations.

Concord Facility

5. During the April 4, 2017 inspection, DEQ staff observed ASTs on the Concord Facility's property. According to observations made onsite and information provided by Facility representatives, the following ASTs were storing petroleum on site: a 12,000 gallon AST storing a diesel/water mixture; a 6,000 gallon compartmentalized AST storing used oil, a used oil/water mixture, and a gasoline/water mixture; a compartmentalized tanker trailer of unknown capacity storing used oil, a used oil/water mixture, and a gasoline/water mixture; a 3,000 gallon AST storing used oil; a 2,000 gallon AST storing used oil; a 9,500 gallon AST storing on-road diesel; an AST with an estimated capacity of 9,500 gallons storing gasoline; and an AST with an estimated capacity of 9,500 gallons storing off-road diesel.

6. No registration for the Facility and AST notification form was on file with DEQ.

9 VAC 25-91-100(A) requires an operator of a facility with an aggregate aboveground storage capacity of more than 1,320 gallons of oil or an operator of an individual AST with a storage capacity of more than 660 gallons of oil to register such facility or AST with the board.

7. No oil discharge contingency plan or documents demonstrating pollution prevention compliance were on file with DEQ.

9VAC25-91-170 requires an operator of a facility with an aggregate aboveground storage capacity equal to or greater than 25,000 gallons of oil to prepare and file with the board an oil discharge contingency plan that conforms to the requirements and standards determined by the board to be necessary to ensure that the applicant can take such steps as are necessary to protect environmentally sensitive areas; to respond to the threat of an oil discharge; and to contain, cleanup and mitigate an oil discharge within the shortest feasible time.

8. The off-road diesel, on-road diesel and the gasoline tanks were equipped with secondary containment; however, no documentation indicating the containment system was certified by a professional engineer was available. The other ASTs and used oil containers were not equipped with secondary containment.

9VAC25-91-130.B requires an operator of a facility with an aggregate aboveground storage capacity equal to or greater than 25,000 gallons of oil to comply with inventory control, secondary containment, safe fill and shutdown procedures, piping pressure testing, visual daily and weekly inspections, training and leak detection requirements.

9VAC20-60-279 [incorporating 40 CFR 279.45(d) and (e) by reference] states that containers and existing aboveground tanks, respectively, used to store used oil at transfer facilities must be equipped with a secondary containment system.

9. The 12,000 gallon tank storing a diesel/water mixture and the 6,000 gallon compartmentalized tank, both located aboveground, were designed and constructed to store liquids underground.

9 VAC 25-91-140(A) states that all ASTs shall be built in accordance with the applicable design standards adopted by the Underwriters Laboratories, the American Petroleum Institute, the Steel Tank Institute or other standard approved by the board.

10. W.E.L. stored used oil on site for more than 24 hours at a time and longer than 35 days.

9VAC20-60-279 [incorporating 40 CFR 279.45] states that a "used oil transfer facility" means "any transportation related facility including loading docks, parking areas, storage areas and other areas where shipments of used oil are held for more than 24 hours and not longer than 35 days during the normal course of transportation or prior to an activity performed pursuant to §279.20(b)(2)... Transfer facilities that store used oil for more than 35 days are subject to regulation under subpart F of [part 279]."

11. The 2,000 gallon used oil AST was not labeled with the words "Used Oil".

9VAC20-60-279 [incorporating 40 CFR 279.22(c)(1) by reference] states that containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."

12. Petroleum contaminated soils were stockpiled on site without a barrier between the contaminated soils and the ground. Adjacent to the stockpiled soil, DEQ staff observed standing water puddles on the ground with a sheen on the water surface. W.E.L. had not notified DEQ of a release and had not characterized or cleaned up this release.

Va. Code §62.1-44:34.18 prohibits the discharge of oil into or upon state waters, lands or storm drain systems within the Commonwealth.

Va. Code §62.1-44:34.19 requires an operator of any facility, vehicle or vessel from which there is a discharge of oil into state waters, lands, or storm drain systems or from which there is a discharge of oil which may reasonably be expected to enter state waters, lands or storm drain systems, shall, immediately upon learning of the discharge, notify the board, the director or coordinator of emergency services appointed pursuant to §44-

146.19 for the political subdivision in which the discharge occurs and any other political subdivision reasonably expected to be affected by the discharge, and appropriate federal authorities of such discharge.

13. There was a 55-gallon drum on site that had been used as a burn barrel. Facility representatives stated that a W.E.L. staff member burned documents with proprietary information as a means of disposal.

9VAC20-81-40.A. states that no person shall operate any sanitary landfill or other facility for the disposal, treatment, or storage of solid waste without a permit from the director.

14. W.E.L. had accumulated universal waste on site that had been picked up from various generator facilities. Based on documentation, the Facility accumulated universal waste on site for greater than one year.

9VAC20-60-273 [incorporating 40 CFR 273.15(a) by reference] states that a small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler. However a small quantity handler may accumulate hazardous waste for greater than one year if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal, and the handler can prove that such activity is solely for that reason.

15. The Concord Facility transported and stored regulated medical waste. Based on documentation, this waste was stored on site for greater than seven days and was not refrigerated. The Facility is not permitted to store regulated medical waste on site.

9VAC20-120-430 states that any regulated medical waste that is stored for more than seven days must be refrigerated and maintained in an ambient temperature between 35° and 45°F (2° and 5°C). Any vehicle parked 24 hours or more during transport will be considered a storage facility subject to the requirements of Part V (9VAC20-120-330 et seq.) of this chapter. No storage during transport will be allowed without a permit issued in accordance with the procedures in Part X (9VAC20-120-680 et seq.) of this chapter.

16. On May 25, 2017, DEQ staff conducted an inspection of the ASTs at the Concord Facility and observed that the following tanks had been emptied and labeled with "Out of Service—Empty": the 12,000 gallon AST formerly storing a diesel/water mixture and the 6,000 gallon compartmentalized AST. The off-road diesel AST and gasoline AST had been removed from the Facility. No registration for Facility and AST notification form or closure documentation for these ASTs were on file with DEQ.

9VAC25-91-120 requires an AST or facility operator to report closure operations to the board within 30 days of permanently closing an AST and to close the AST by registering the AST with the board, obtaining a closure inspection, removing all liquids, sludges and vapors from the AST and piping, and assessing the area for petroleum contamination. Closed ASTs remaining on site must be rendered vapor free, secured against tampering

and flooding, appropriately labeled and the piping must be disconnected and capped or blind flanged.

9VAC20-60-279 [incorporating 40 CFR 279.54(h) by reference] states that (1) owners and operators who store or process used oil in aboveground tanks must comply with the following requirements: (i) At closure of a tank system, the owner or operator must remove or decontaminate used oil residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under this chapter.

17. The Concord Facility has not submitted a report of its used oil activities to DEQ on a biennial basis.

Legal Requirements: 9VAC20-60-279 Subpart F [incorporating 40 CFR 279.57(b) by reference] states that a used oil processor/re-refiner must report to the Regional Administrator, in the form of a letter, on a biennial basis (by March 1 of each even numbered year), [...] information concerning used oil activities during the previous calendar year.

18. On October 25, 2017, DEQ received registration and notification forms for ASTs at the Concord Facility. DEQ subsequently informed W.E.L. that the documents needed corrections. On December 12, 2017, DEQ received a corrected form.
19. W.E.L.'s Spill Prevention, Control and Countermeasures (SPCC) plan was updated in the fall of 2017 and certified by an engineer on October 18, 2017.
20. Following the inspections, W.E.L. submitted an Oil Discharge Plan for the Concord Facility, which DEQ approved on December 22, 2017. DEQ conducted an AST inspection at the Concord Facility on May 1, 2018 and documented non-compliance with 9 VAC 25-91-10. The Concord Facility did not have documentation of personnel training, annual calibration of the gauges on tanks, and a pressure test demonstrating piping integrity.
21. DEQ received proof of a professional engineer certification for the on-road diesel AST on May 1, 2018. The off-road diesel and gasoline ASTs were taken out of service, and removed, prior to the May 25, 2017 re-inspection. The ASTs used to store used oil/used fuel brought to the Concord Facility from daily projects conducted off site were also taken out of service prior to the May 25, 2017 inspection. WEL currently has seven above ground storage tanks at the Concord Facility and they all have secondary containment.
22. Prior to the May 25, 2017 inspection, the ASTs used to store used oil/used fuel were taken out of service. DEQ received closure and assessment documentation for each of these tanks. As a result of the closure documentation, a pollution complaint was opened and subsequently closed by DEQ remediation staff.

23. On October 17, 2017, DEQ and W.E.L. met to discuss the inspections and the NOV. During the meeting, W.E.L. submitted documentation explaining that W.E.L., in conjunction with third party waste reclamation/disposal vendors will ensure that all used oil/used fuel, and used oil/fuel/water mixtures brought to the facility from daily projects off-site will be picked up and/or delivered to the vendors for final reclamation/disposal within 35 days from initial storage in accordance with the regulation.
24. The 2,000 gallon used oil AST was properly labeled prior to the May 25, 2017 re-inspection.
25. W.E.L. stated the stockpile of petroleum contaminated soils was a result of general housekeeping activities conducted at the facility due to equipment leakage/mechanical failures, from company vehicles, and equipment, with no release >25 gallons to state lands and no release in any amount to state waters and/or storm drains. The stockpiled material was covered to prevent any further run-off issues, and disposed off site.
26. Following the April 4, 2017 inspection, W.E.L. ceased the burning of documents and all company documents containing proprietary information will be collected and taken to a document shredding facility for destruction.
27. W.E.L. submitted notification and closure documentation for the Concord Facility ASTs that were labeled "Out of Service—Empty" and the tanks that were removed.
28. On January 23, 2018, DEQ received a copy of the bill of lading for universal waste removal. In the future, W.E.L. will ensure that the maximum 1 year accumulation period is not exceeded.
29. W.E.L. said the material in the "red bags" was actually household trash and garbage and not regulated medical waste. However, because it is in "red bags" it is treated as medical waste and had to be disposed of as medical waste. W.E.L. does not engage or solicit removal, transportation, or disposal of regulated medical waste and will ensure that regulations are followed in the future.

Roanoke Facility

30. During the June 8, 2017 inspection, DEQ staff observed ASTs on site. Based on observations and information provided by facility representatives, the tanks included a 1,000 gallon AST storing used oil, a 1,000 gallon AST storing off-road diesel, and a 2,500 gallon AST storing gasoline.
31. No registration for the Facility and AST notification form was on file with DEQ.

9 VAC 25-91-100(A) requires an operator of a facility with an aggregate aboveground storage capacity of more than 1,320 gallons of oil or an operator of an individual AST

with a storage capacity of more than 660 gallons of oil to register such facility or AST with the board.

32. Used oil was stored on site for more than 24 hours at a time and longer than 35 days.

9VAC20-60-279 [incorporating 40 CFR 279.45] states that a "used oil transfer facility" means "any transportation related facility including loading docks, parking areas, storage areas and other areas where shipments of used oil are held for more than 24 hours and not longer than 35 days during the normal course of transportation or prior to an activity performed pursuant to §279.20(b)(2)... Transfer facilities that store used oil for more than 35 days are subject to regulation under subpart F of [part 279]."

33. The Facility had no secondary containment for its used oil containers.

9VAC25-91-130.B requires an operator of a facility with an aggregate aboveground storage capacity equal to or greater than 25,000 gallons of oil to comply with inventory control, secondary containment, safe fill and shutdown procedures, piping pressure testing, visual daily and weekly inspections, training and leak detection requirements.

9VAC20-60-279 [incorporating 40 CFR 279.45(d) and (e) by reference] states that containers and existing aboveground tanks, respectively, used to store used oil at transfer facilities must be equipped with a secondary containment system.

34. The Facility stored contaminated soil in drums and waste piles for up to one year.

9VAC20-81-40.A states that no person shall operate any sanitary landfill or other facility for the disposal, treatment, or storage of solid waste without a permit from the director.

35. On April 30, 2018, DEQ received AST registration and notification forms for the Roanoke Facility.
36. On October 17, 2017, W.E.L. informed DEQ that it was in the process of procuring and installing double-walled ASTs for the storage of used oil at the Facilities. On July 24, 2018, W.E.L. stated that double walled ASTs are used at the Facility to store used oil. W.E.L. also said that has implemented expedited bulking and disposal of waste material within ninety days from the initial date of acceptance/storage.

Winchester Facility

37. During the June 23, 2017 inspection, DEQ staff observed an on-road tanker parked on site. According to information provided by a Facility representative, the tanker stored petroleum mixtures and had a capacity of 8,500 gallons.
38. DEQ observed that W.E.L. stored used oil in the tanker for more than 24 hours at a time and longer than 35 days.

9VAC20-60-279 [incorporating 40 CFR 279.45] states that a “used oil transfer facility” means “any transportation related facility including loading docks, parking areas, storage areas and other areas where shipments of used oil are held for more than 24 hours and not longer than 35 days during the normal course of transportation or prior to an activity performed pursuant to §279.20(b)(2)... Transfer facilities that store used oil for more than 35 days are subject to regulation under subpart F of [part 279].”

39. Two compartments of this over-the-road tanker that were being used for used oil storage were not labeled with the words “Used Oil”.

9VAC20-60-279 [incorporating 40 CFR 279.22(c)(1) by reference] states that containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words “Used Oil.”

40. The Winchester Facility has not submitted a report of its used oil activities to DEQ on a biennial basis.

9VAC20-60-279 Subpart F [incorporating 40 CFR 279.57(b) by reference] states that a used oil processor/re-refiner must report to the Regional Administrator, in the form of a letter, on a biennial basis (by March 1 of each even numbered year), [...] information concerning used oil activities during the previous calendar year.

41. The tanker was properly labeled by W.E.L. following the June 23, 2017 inspection. On October 20, 2017 DEQ received a picture of the labeled tanker.

All Facilities

42. The Concord, Roanoke, and Winchester Facilities could not demonstrate that a hazardous waste determination had been made on aerosol cans generated at the Facilities.

9VAC20-60-262 [incorporating 40 CFR 262.11 by reference] states that a person who generates a solid waste, as defined in 40 CFR 261.2 must determine if that waste is a hazardous waste using either analytical testing or generator knowledge.

43. On August 25, 2017 based on the inspections and follow-up information, the Department issued Notice of Violation No. 2017-08-CO-651 to W.E.L. for the violations described in paragraphs C(5) through C(42), above.
44. On October 17, 2017 Department staff met with representatives of W.E.L. to discuss the violations.
45. Based on the results of April 4, 2017, May 25, 2017, June 8, 2017, and June 23, 2017 inspections, the October 17, 2017 meeting, and the documentation submitted on October 17, 2017, the Board concludes that W.E.L. has violated 9 VAC 25-91-100(A), 9 VAC 25-

91-170(B), 9 VAC 25-91-130(B)(2), 9 VAC 20-60-262, 9 VAC 20-60-263, 9 VAC 20-60-273, 9 VAC 20-60-279, 9 VAC 20-81-40(A), 9 VAC 20-120-430, 9 VAC 25-91-140(A), 9 VAC 25-91-120, 40 CFR 262.11, 40 CFR 273.15(a), 40 CFR 279.22(c)(1), 40 CFR 279.45(d) and (e), 40 CFR 279.54(h), 40 CFR 279.57(b), Va. Code § 62.1-44:34.19, and Va. Code § 62.1-44:34.19 as described in paragraphs C(5) through C(42), above.

46. In order for W.E.L. to complete its return to compliance, DEQ staff and representatives of W.E.L. have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders W.E.L. and W.E.L. agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$39,113 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

W.E.L. shall include its Federal Employer Identification Number (FEIN) (_ - _) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, W.E.L. shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of W.E.L. for good cause shown by W.E.L., or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. 2017-08-CO-651 dated August 25, 2017. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent,

or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, W.E.L. admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. W.E.L. consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. W.E.L. declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by W.E.L. to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. W.E.L. shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. W.E.L. shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. W.E.L. shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and W.E.L. Nevertheless, W.E.L. agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after W.E.L. has completed all of the requirements of the Order;
 - b. W.E.L. petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to W.E.L.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve W.E.L. from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

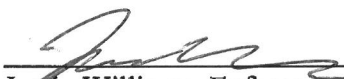
12. Any plans, reports, schedules or specifications attached hereto or submitted by W.E.L. and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of W.E.L. certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind W.E.L. to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of W.E.L.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, W.E.L. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 5th day of October, 2018.

Consent Order

W.E.L., Inc.; EPA ID. No. VAD988171369, VACESQG21702, VACESQG31703

Page 14 of 16


Justin Williams, Enforcement Director
Department of Environmental Quality

------(Remainder of Page Intentionally Blank)-----

W.E.L., Inc. voluntarily agrees to the issuance of this Order.

Date: 8/1/18 By: William E. Litchford, President
(Person) (Title)
W.E.L., Inc.

Commonwealth of Virginia
City/County of Campbell

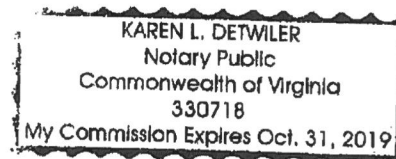
The foregoing document was signed and acknowledged before me this 1st day of
August, 2018, by William E. Litchford who is
President of W.E.L., Inc., on behalf of the corporation.

Karen L. Detwiler
Notary Public

330718
Registration No.

My commission expires: 10/31/19

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. Pollution Prevention

- a. No later than August 1, 2018, W.E.L. shall submit a personnel training roster for W.E.L.'s Concord Facility to DEQ.
- b. No later than August 1, 2018, W.E.L. shall submit documentation of the annual calibration of the gauges on the tanks at the Concord Facility.
- c. No later than August 1, 2018, W.E.L. shall submit documentation of a pressure test demonstrating piping integrity for the tanks that use piping at the Concord Facility.

2. Soil Characterization

- a. W.E.L. shall perform a soil characterization report for the Concord Facility in the area where the petroleum contaminated soil stockpiles were located.
- b. The report shall be submitted to DEQ for analysis no later than August 1, 2018.

3. Secondary Containment

- a. No later than August 15, 2018, W.E.L. shall provide documentation of secondary containment for its used oil containers at the Roanoke Facility.

4. Aerosol Cans

- a. No later than August 15, 2018, W.E.L. shall provide documentation of the proper disposal of aerosol cans at the Concord Facility, Roanoke Facility, and Winchester Facility.

5. Contact

Unless otherwise specified in this Order, W.E.L. shall submit all requirements of Appendix A of this Order to:

Kristen Sadtler
Water Enforcement Manager
VA DEQ - Central Office
P.O. Box 1105
Richmond, VA 23218
804-698-4149
Kristen.sadtler@deq.virginia.gov